

Economic Impact Statement

LSA Document #13-402

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

The Indiana Department of Administration (Department) has determined that the rule proposed will impose minimal requirements or costs on small businesses.

1. An estimate of the number of small businesses, classified by industry sector, that will be subject to the proposed rule.

The proposed rule affects Indiana veteran-owned small business enterprises (IVBE), certified by the United States Department of Veterans Affairs' (DVA) Veteran-Owned Small Business (VOSB) program. According to the DVA's Vetbiz.gov Vendor Information database, there are 59 Indiana firms with VOSB certification and 82 with Service Disabled certifications. The Small Business Administration's Office of Advocacy reports that in 2007, there were approximately 71,000 veteran-owned businesses.¹ This estimate does not account for veteran majority ownership of the business or small business eligibility, which is a requirement under the proposed rule and the VOSB program. The proposed rule provides opportunities to current and prospective Indiana VOSB certified firms and indirectly offers federal opportunities by way of the IVBE program eligibility and requirements. Note, the Vetbiz.gov database does not categorize or differentiate the industry each entity is engaged.

2. An estimate of the average annual reporting, record keeping, and other administrative costs that small businesses will incur to comply with the proposed rule.

The proposed rule will not impose any direct expenses on IVBE applicants. The proposed rule observes the VOSB program and certification process and participants will be required to demonstrate proof of certification from the DVA, proof of principal place of business in Indiana, as well as other documents clarifying the authenticity and accuracy of certification, as requested by the Department.

The proposed rule requires IVBE to report payments received as a subcontractor or paid to a subcontractor as a prime contractor into the state's online audit tool, commonly referred to as "Pay Audit", on a monthly basis. The proposed rule also requires IVBE to provide documentation of renewal certification to the Department and make known any material changes to the organizational structure of the firm that might otherwise compromise its' eligibility, which is a parallel requirement of the VOSB program.

For purposes of competing in the state's procurement process as a prime contractor, the proposed rule requires certain standard documentation to be submitted. IVBE will be required to submit contact information, the type of work to be performed, an anticipated project start date and, if applicable, the contract amount to be subcontracted.

3. An estimate of the total annual economic impact that compliance with the proposed rule will have on all small businesses subject to the rule.

The primary benefit of IVBE eligibility and participation is the opportunity to compete in the state procurement and contracting process with a small business preference. [IC 5-22-14-11](#), the enabling legislation for the proposed rule, sets the IVBE goal at 3% of eligible state contracts.

As a derivative benefit of eligibility under the proposed rule and since an IVBE will be required to first be federally certified under the VOSB program, IVBE will not only be eligible for state opportunities, but they will also be eligible for federal procurement and contracting opportunities, which industry codes exceed those permitted by Indiana's statute for IVBE participation. Pursuant to the Small Business Act,² the federal government has set a goal to procure 23% of the eligible fiscal spend with small businesses, which represents approximately \$90,000,000,000.³ While each federal agency's small business scorecard places different priorities on small business certifications, there is particular emphasis placed on doing business with VOSB at the DVA. Recently, the DVA greatly exceeded its eligible VOSB fiscal goal of 3% and awarded nearly 20% to VOSB certified firms and 18% to Service Disabled certified firms.⁴ In 2012, the DVA's VOSB and Service Disabled goal was set at 12% and 10% respectively,⁵ which represented an approximate combined value of \$3,750,000,000 of the federal agency's eligible fiscal spend.⁶

The proposed rule does not impose any negative direct costs or consequences on IVBE beyond those currently required under the VOSB program. There are no fees associated with the IVBE program under the proposed rule. The proposed rule will not impose burdensome compliance obligations or expenses on IVBE, as they will be required to submit documentation already maintained as a result of their enrollment and certification in the VOSB program. As previously stated, documentation will include their VOSB certification status, proof of principal place of business in Indiana, as well as other documents clarifying the authenticity and accuracy of certification, as requested by the Department.

Indirect costs associated with the proposed rule are those necessary to comply with the VOSB program.

Those costs may include time and resources required to apply for the VOSB program, which includes an application, verification, evaluation, and determination stage, as well as a process to apply for certification renewal. There are no fees associated with the VOSB application process.

The proposed rule requires certain ongoing compliance obligations for IVBE. As previously discussed, the proposed rule requires IVBE to report payments received as a subcontractor or paid to a subcontractor by a prime contractor into the state's online audit tool, provide documentation of renewal certification to the Department and make known any material changes to the organizational structure of the firm.

4. A statement justifying any requirement or cost that is imposed on small businesses by the rule, and not expressly required by the statute authorizing the agency to adopt the rule, or any other state or federal law.

The proposed rule does not impose additional requirements or direct costs on IVBE beyond those currently required under the VOSB program. As required by [IC 5-22-14-11](#), the enabling legislation for the proposed rule, an IVBE is required to be certified by the VOSB program.

Indirect costs are those associated with 38 CFR 74 (2011), the VOSB program's eligibility, application, and evaluation requirements. Although there are no fees associated with the VOSB program, costs may include time and resources required to apply for the VOSB program, which includes an application, verification, evaluation, and determination stage, as well as a process to apply for certification renewal.

5. Regulatory Flexibility Analysis

The Department is unable to determine a feasible, less restrictive or burdensome method for accomplishing the purpose of the proposed rule. Any alternative for IVBE that would allow for less stringent compliance, documentation requirements or ongoing reporting obligations would undermine the integrity of the proposed rule and render the resulting rule impotent. As a result, an alternative that would consolidate or simplify compliance or reporting requirements for IVBE is not reasonably possible. While the proposed rule will create a new requirement on IVBE bidders for state contracting and procurement purposes, the total impact is minimal when considering the number of affected IVBE, the actual costs involved and the neutralization of any redundant processes at the state level when balanced against the new business opportunities afforded to IVBE.

A. Establishment of less stringent compliance or reporting requirements for small businesses.

The least stringent means of compliance and reporting requirements have been utilized in the proposed rule. The proposed rule only requires IVBE to submit documents that are already maintained or previously submitted as a requirement of the VOSB program.

B. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses.

The proposed rule requires certain ongoing compliance obligations for IVBE. The proposed rule also requires IVBE to provide renewal certifications to the Department and make known any material changes to the organizational structure of the firm, which is a parallel requirement of the VOSB program. However, under the proposed rule, the Department provides an additional 30 days to affirmatively report any material changes that are otherwise reportable to the DVA, as a condition of participating in the VOSB program. The proposed rule requires IVBE to report payments received under a state funded contract as a subcontractor or paid to a subcontractor by a prime contractor into the state's online audit tool. The monthly reporting schedule satisfies the state's interest in maintaining and protecting the integrity of the IVBE program without creating an undue burden on the small business participant.

C. Consolidation or simplification of compliance or reporting requirements for small businesses.

The least stringent means of compliance and reporting requirements have been utilized in the proposed rule. The proposed rule only requires IVBE to submit documents that are already maintained or previously submitted as a requirement of the VOSB program.

D. Establishment of performance standards for small businesses instead of design or operational standards imposed on other regulated entities by the rule.

The proposed rule requires all IVBE to comply with the same reporting requirements under the VOSB program. The Department proposes an additional 30 day window to report these changes under the proposed rule.

E. Exemption of small businesses from part or all of the requirements or costs imposed by the rule.

There are no exemptions provided under the proposed rule as there are no direct costs imposed or incurred by IVBE.

Conclusion

The proposed rule provides additional economic opportunities by setting a goal of IVBE achieving at least 3% of the state's eligible competitive purchases of goods and services and affords IVBE preferences in the state bidding process.⁷ The IVBE goal is designed to help men and women who return home after serving their country or have previously served to start or expand their own business.

¹ United States Small Business Administration, Office of Advocacy, *Small Business Profile: Indiana*, February 2013.

² 15 U.S.C. 644(g) (2006).

³ U.S. Small Business Admin., *FY 2012 Scorecard Summary by Prime Spend with Subk and Plan Progress Document* [hereinafter "Scorecard Summary"], retrieved from:
http://www.sba.gov/sites/default/files/files/FY2012_Summary_by_Prime_Spend_with_Subk_and_Plan_Progress.pdf

⁴ The Department of Veterans Affairs, Office of Public and Intergovernmental Affairs (2012). *VA Exceeds Government-Wide Goal for Veteran-Owned Business Procurement* [News Release], retrieved from:
<http://www.va.gov/opa/pressrel/pressrelease.cfm?id=2351>

⁵ Department of Veterans Affairs, *FY 2012 Small Business Procurement Scorecard*, retrieved from:
http://www.sba.gov/sites/default/files/files/FY12_Final_Scorecard_VA_2013-06-20.pdf

⁶ Scorecard Summary.

⁷ Indiana Code 5-22-14-11(a)(1).

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